

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

<p>SUSANNA O. STEPHENS, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF LYDIA PLESKUN</p> <p style="text-align: center;">Plaintiffs</p> <p>v.</p> <p>RUSHMORE LOAN MANAGEMENT SERVICES, LLC, U.S. BANK TRUST NAT'L ASS'N, AS TRUSTEE OF DWELLING SERIES IV TRUST</p> <p style="text-align: center;">Defendants</p>	<p>Civil Action No. 22-cv-10225-ADB</p>
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DEFENDANT RUSHMORE AND U.S. BANK'S MOTION TO DISMISS

Susanna O. Stephens, individually and as personal representative of the Estate of Lydia Pleskun (the “**Plaintiff**”) has not stated a claim upon which relief can be granted. The Plaintiff claims that Rushmore Loan Management (“**Rushmore**”) and U.S. Bank Trust National Association as Trustee of Dwelling Series IV Trust¹ (“**U.S. Bank**”) (collectively the “**Defendants**”) failed to exercise the power of sale in the mortgage of Lydia Pleskun. However, the Plaintiff individually lacks standing to make such a claim. Meanwhile, the Plaintiff as personal representative seeks to manufacture a defect in the Defendants’ notice of default by conflating the language in the notice of acceleration with the notice of default.

¹ The correct name of the current holder of the mortgage is U.S. Bank National Association as Trustee of Dwelling Series IV Trust.

WHEREFORE, based upon the Plaintiffs' factual allegations as well as applicable law, U.S. Bank and Rushmore respectfully request that this Court enter an order:

- (1) Granting the Defendants' Motion to Dismiss; and
- (2) Granting the Defendants such other and further relief as is just and proper.

Respectfully submitted,

Rushmore Loan Management and U.S.
Bank Trust Nat'l Ass'n as Trustee of
Dwelling Series IV Trust,
By its attorneys,

DEMERLE HOEGER, LLP,

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